

**MINUTES OF THE CITY PLANNING COMMISSION
J. MARTIN GRIESEL ROOM**

July 30, 2004
9:00 A.M.

PRESENT: *Appointed Members:*

Don Mooney, Terry Hankner, Caleb Faux, Jacquelyn McCray,

Community Development and Planning Staff:

Margaret Wuerstle, Virginia Vornhagen, Rodney Ringer, Katherine Keough-Jurs, and Steve Briggs

Law Department:

Dotty Carman

CALL TO ORDER

Mr. Mooney called the meeting to order.

MINUTES

Minutes of June 18, 2004 meeting for approval.

Motion: Ms. Hankner moved approval

Second: Ms. McCray

Vote: All ayes (4-0), motion carries.

CONSENT ITEMS

None.

DISCUSSION ITEMS

ITEM #1 – Emergency Ordinance – Bethany House Services, Inc. Notwithstanding the provisions of Chapter 1403, Single-Family Districts of the Cincinnati Zoning Code authorizing the Director of Buildings and Inspections to issue a certificate of occupancy for use of the structure at 1833 Fairmount Avenue as offices for not-for-profit administrative operations and program activities.

Rodney Ringer presented information on this item. The Planning group received two ordinances on May 25. One was to look at during the zone change, where it was seen by Steven Kurtz's office. One was to look at the zone change of 1833 Fairmount Avenue. The second ordinance was received simultaneously asking us to look at Emergency Notwithstanding Ordinance for the same property. A few days later an Ordinance was issued for Bethany House at 1833 Fairmount Avenue still asked us to look at a zone change. Upon doing that we found out the existing land use after throwing the existing zone code over was single family and did not allow for Bethany House to operate at that site so staff is looking at disapproving the zone change for the property. In between going through the analysis of a zone change study, we heard from Council member Tarbell two things, North Fairmount Community Center had actually said they accepted the zone change and it was also stated in the Ordinance that the

South Fairmount Community Center supported the Ordinance. Both of which, as we continued our report, we found to be not true.

If you review the letter of July 27, we had already sent out information on July 16. South Fairmount Community Council had no idea that the Ordinance had been issued. Secondly, in our efforts to hurry to move forward with the zone change study, we did not submit the information to the public via a Staff Conference, however, we did notify the Community Council as well as the property owners within a 400' radius of the situation. Just recently we received a phone call from Steve Brinkler, a representative from Bethany House, who said there must have been some confusion. We did not want a zone change, but we were told by Council member Cranley's office to look at a zone change. Mr. Brinkler said the only thing they wanted to do was get an ordinance for a certificate of occupancy to utilize the site.

From the perspective of the staff Bethany House has already been given the right to use the property, there is no need to do a zone change study. Mr. Mooney asked Rodney to describe the prospective use of the property and building(s). Rodney informed the Commission that a single-family home already on the property. The property at 1841 is also owned by Bethany House. They received a notwithstanding ordinance for this site back in 1991 (order #477). Up to this time they have been using this property for office, not-for-profit, but the community has not been forthcoming with its endorsement.

Mr. Mooney summarized to turn down the zone change for the reasons you described, and Ms. Hankner followed up that Bethany House that they continue operation based on the Ordinance.

Mr. Mooney discovered he had a "speaker's request card" from a Mr. Ellis in the audience who represented Bethany House. Mr. Mooney asked Mr. Ellis if he were in agreement with the cash refund. Mr. Ellis is in agreement, and said that he could hand over a signed copy of the agreement to that effect. To reiterate, he is in full agreement with Staff to not allow a zone change for this property. In fact, Mr. Ellis was recently in contact with other residents in the neighborhood, who had received a notice and after consideration they feel if a zone change is passed, it may be possible for Bethany House to "take over" the neighborhood. The neighbors are not in favor of the zone change.

Mr. Mooney questioned who processed the Notwithstanding Ordinance, to make sure it is not before the Planning Commission. Ms. Wuerstle and Mr. Ringer both assure Mr. Mooney that the notwithstanding ordinance was not before the Commission today. The notwithstanding ordinances are received from another department through the Clerk's office. Mr. Mooney asked if Council had passed the ordinance. Rodney said it had been passed by Council on June 8th. Ms. Carman said that the Planning Commission would not want the Notwithstanding Ordinances as part of their responsibility. Ms. Hankner suggested that she approve the Staff Report and disapprove the zone change.

Mr. Ellis also pointed out how the support by the South Fairmount Community Council came about. Part of this was a Council member Cranley motion. Mr. Ellis has documentation from Mr. Cranley's office. An ordinance from 1986 was used SFCC wanted the use of property at 1836 for his motion to go forward. At the no time was the SFCC ever notified or gave approval for this action. Mr. Mooney felt the statute of limitations have run on the 1986 (negative noises from Ms. Carman).

Motion: Ms. Hankner Moved Approval of Staff Report and Disapproval of Zone Change.

Second: Mr. Faux
Vote: All ayes (4-0), motion carries.

ITEM #2 – A report and recommendation on a proposed zone change at 1803, 1807 and 1811 Josephine Street in the community of Mt. Auburn. Applicant is requesting a zone change in order to consolidate their school campus and provide a maintenance office/storage facility for the campus (God's Bible School & College). The change would be from SF-2 Single-Family to I-R Institutional-Residential District to incorporate their property into the I-R district.

Rodney Ringer (Staff Planner) presented this item. Their campus is covered by I-R, but they would like to incorporate two buildings into the campus. The buildings would be used as office space and storage facilities. The storage facility would support overload from other parts of the campus. The office would be needed for administration as the college has expanded. The buildings would be one story, about 16 feet high. About 1500 feet for offices, and a little over 3,000 ft. for storage.

Mr. Mooney questioned if the I-R is consistent with the neighborhood with the one lot. The I-R in place is quite a chunk of area. The College has been in existence since 1900 in Mt. Auburn and from all reports has been a good neighbor to both Mt. Auburn and Clifton.

Mr. Mooney asked Mr. Harley and Mr. Lum to come forward to present their case. As was said our school has been in the neighborhood since 1900. We have consistently been improving our campus over the years. One piece of this additional property was acquired about 30 years ago, and the other piece was acquired about 25 years ago. The addition of these buildings will help us localize the functions, as they are now spread over the campus, to make better use of these lots. The topography of these lots are better suited to building as you already Mt. Auburn is very hilly. Right now we have a staff house in this area of the two vacant lots.

Motion: Ms. Hankner Moved Approval
Second: Ms. McCray
Vote: All ayes (4-0), motion carries.

ITEM #3 – A report and recommendation on a proposed zone change from RM-2.0 Multi-Family Residential District at 3119 Glenmore Avenue in Westwood and OL office Limited District at 3302 Werk Road in Westwood to CC-A Commercial Community – Auto.

Katherine Keough-Jurs (Staff Planner) made the presentation on this item. She took a moment to describe the area. Close property is zoned CP-A. Site at 3119 Glenmore and a portion at 3302 Werk is requested to be re-zoned from RM-2.0 and Office Limited to Commercial Community Auto. The Family Video has requested this change, after working with the Community Council, to make a larger site for the building and parking as well as a more attractive development.

Originally the Westwood Civic Association was opposed to the development because:

- taking away the Office and Residential Zoning would be supporting the slow encroachment of commercial uses in a residential area. As a bit of background the community had trouble with

a gas station now in place and the parent company decided to place it on that particular corner lot (Glenmore & Werk).

After some discussion with Family Video, the Westwood Civic Association came to a decision to support the project. It was felt if the two groups worked together the area would work out to the approval of both parties. Some of the problems included lighting, buffering, parking and hours, which really can't be addressed by zoning.

The issue then became whether to set the area up as CCA or would there be some way to make the change more neighborhood friendly. An example of other zoning considerations would be if the video store left what would the re-zoning leave the door open to replacing the store. After a great deal of discussion and give and take by both parties it was decided to change the zoning to CCM (Commercial Community Mixed). This zoning would be slightly lower and less intensive, it would protect the community a little bit more in the future. It would be less auto oriented.

The Westwood Civic Association and Family Video had the discussion without the Planning Staff in attendance. They will fill you in on their discussions. The site of the store, using the CCM, would require new construction to be built to the corner, if only one of the other corners is built to the corner (was a bar, now an upholsterer's shop). We could go with a Special Exception and thus have the building back somewhat.

When public notification was released, somehow, some residents began to get the impression that Family Video was an "adult" video store, which is not the case. That kind of business would not be allowed within any of these zonings. Therefore the Planning Commission should ignore whatever input it may receive from the neighbors to that effect.

Since our recommendation is an alternative, we want you to deny the first request of RM-2.0 and Office Limited to CCA. Then the request would be to approve the re-zoning all of these parcels surrounding the Family Video location. Make the zone change only for the portion of Office Limited site as it is all purchased through one owner and wait until purchase before the zone change is set in place. The owner is agreeable to this.

Representatives from both Family Video and Westwood Civic Association are both here to speak or if you have questions. Both parties should be commended in that worked with each other for the general improvement of their neighborhood.

Mr. Faux pointed out that to have the construction up to the corner is a requirement and there is a definite reason for this requirement. Therefore Mr. Faux is reluctant to process this as a "special exception". Ms. Hankner asked Katherine who would handle the special exceptions.

Douglas Klang, 2852 Berwick Drive, Springfield, OH 45503 of Family Video. Their market studies indicate that this location would be great for their video store; business projections indicate 5-10 year probability. On the issue of bringing the building to the corner, if the dilapidated, unused restaurant weren't on the next corner, we would not be required to set up to the corner. To construct their building according to the code would require them to repeat the disaster of the gas station across the street. It would serve no benefit to the City, the neighborhood or the video company.

His preference would be to zone it CCA so he wouldn't have to go and get a special exception. The compromise to go to CCM with the special exception would prevent future mis-use that would disrupt the neighborhood in the future. This compromise would require allowing us to construct the building more to the back of the lot. The building is going to be 24 feet tall and setting more to the back would help eliminate the noise, light, etc. pollution to the neighbors to the back and side.

Mr. Mooney asked for the identification of the buildings on the property now. Mr. Klang said that the major one is currently a meat market (moving to the Bridgetown area). Another building is a house that has been subdivided into offices, but is now vacant. Another building is a rather large going which at one time belonged to the house and is used as a motorcycle repair. Mr. Klang passed out brochures which pictured the building Family Video would construct. The Civic Association and Family Video have agreed upon the placement of the building on the site. The business would be open 10 to midnight. The video store has agreed not sell adult videos until 2007, end of fiscal year, and only if the profit were marginal. Many other factors like landscaping, etc. have been agreed to as requested by the Civic Association.

Mr. Faux asked Mr. Klang if the following were true, you would like to re-zone the site because it allows you to put your building on the site with better parking flow, etc. Would it be correct to state that you are absolutely against building up to the corner? Mr. Klang's response felt that type of placement does not work in this day and age. Mr. Faux responded that requirement is in the code for very sound reasons, urban design purposes. Mr. Faux is opposed to letting the special exception go forward. Although the company would have to modify the building design, Mr. Faux felt it could very well go up to the corner and with space for parking behind it and do very well. Mr. Faux felt that rather than making an exception, they could fairly easily place the building in the corner and have two entrances – one at the sidewalk and one for the car park area.

Ms. McCray asked for a moment to speak to a question for Margaret Wuerstle. In the exception process that Steve Kurtz would have some involvement in, what would be the process. Ms. Wuerstle said that if Ms. McCray wanted to know if we could have some input in the process, we could submit comments on any item that goes before him. There are certain things, like hillside requests, that he wants us to comment on and requests us to comment on. He generally doesn't ask us for input on special exceptions, but we can still submit comments. If we do write reports, the report would be included in his minutes and his decision.

Ms. McCray wanted to suggest that would involve the code CCM (the building up to the corner), in communities that are designed really well applicants typically come to the table with alternatives they have considered. The brochure only includes one standard design. Ms. McCray suggested that he recommend to Steve Kurtz that in his process bring some alternative site designs for that corner so he could see how it would look, in his process and that would somewhat address our concerns.

Ms. Hankner really wants to hear from the community. We put the ability to have those special exceptions in place because there are areas, based on what is built now up to the corner may not be the most attractive way to accomplish the building or re-zoning we want to put in place. Then also have some input into what Steve Kurtz puts in place.

Mike Brestle living at 3208 Vitner Avenue.
Edward Roberts living at 3024 Junietta.

Mr. Brestle hesitated because of the objection that had just come up. Because the building across the intersection was built to the corner now has a hole in it caused by an auto accident, Mr. Brestle asked Mr. Faux what the good reasons were for the "build to the corner" part of the zoning? The reason for the build to the corner was to avoid an automobile oriented type of construction. This is a residential neighborhood where people walk, the environment is made less pedestrian oriented and more automobile oriented.

Mr. Brestle lives less than a five-minute walk from the location. To build up to the corner would be such a mistake because of the extremely heavy volume of traffic. To build at that corner would give the impression of driving through a canyon. The topography of the lots with the hills (drop off) would make it very difficult to build on the corner. Mr. Brestle described the layout of the buildings on the lots at the present time. They have discussed with Family Video the placement of the building on various spots, using a map and fit to scale model.

An extra concern for the Civic Association was the possible sale of adult videos in an area where there are two schools, each within a four-block radius of the proposed site.

Another hesitation on the part of the neighborhood was limiting the evening hours of operation.

Mr. Edwards agrees to a certain point about the build to corner. But it is generally a casual walking corner, perhaps because it is so vehicular traffic heavy.

Mr. Brestle suggested a better perspective of the future of this intersection, would be to look at the intersection of Boudinot and Harrison.

From Mr. Brestle's experience with the zoning code of Cincinnati, the decision to drop the "T" zones was very bad thinking. On a negotiation development like this, without the "T" zones we walk into the room with hands tied.

Ms. Debbie Scheffler, 3118 Glenmore, which she pointed out on the map. She has prepared typed material and handed a copy over to the commissioners for review later on. On the idea of re-zoning the property and placement of the building of the Family Video store across the street from her home and other neighbors she is representing. With the CCM zoning the placement of the building becomes a dramatic problem.

The drawing shows a 20 ft. wide space for parking by the store's south side. To make this business more residential friendly to the immediate housing this parking could be flipped to the north side and allow the building to come down to the south area of the property and closer to the side corner of the intersection. Also a minor move of the building to the south end would keep the building more in line with the other businesses at this intersection. This reconfiguration of the building would help decrease the problem of lighting and other minor problems that would greatly affect the homes close by.

Mr. Mooney asked Ms. Scheffler to state what she would like the Commission to do. We can keep the zoning the way it is or we can change it. Your presentation of the change of the site of the building is a good idea. Right now your neighborhood also has the option of a vacant meat market surrounded by a parking lot that would probably not be very well taken care of. If we vote to approve the zone change to CCM can we encourage as part of the motion we encourage the special exception by Mr. Kurtz to move the building southward as much as we can to protect the residential character further up the

street. Ms. Wuerstle said that you can indeed make that part of the recommendation and we will include that in the staff report that we write.

Mr. Faux said that he would be comfortable with following that process, if Mr. Kurtz is reminded to take into consideration the requirements of the codes in place.

Ms. Hankner could support a motion to approve the Staff Report and ask for input from input from the Planning Commission in Mr. Kurtz’s decision making. She can’t support a motion that would say the Planning Commission wants Mr. Kurtz to stick to...

- Motion:**

Ms. McCray -- Mr. Kurtz is required to give due consideration to the exception request in light of the requirement and the existing conditions in the neighborhood. Ms. McCray also suggested that we must impress upon Mr. Kurtz that the building be moved as far south as possible so that the way out of the site does not negatively impact the residents in the northeast SF-4 zone district. Also, that Mr. Kurtz has to follow the exception process and give due consideration as a natural course. Approve the Staff Report.
- Second:**

Mr. Hankner
- Vote:**

All ayes (4-0), motion carries.

ITEM #4 – A report and recommendation to re-name a portion of Eastern Avenue, from the termination of Pete Rose Way eastward to the railroad overpass, to Riverside Drive.

This item #4 has been postponed to another meeting.

ADJOURNMENT

With no further business to consider, the meeting was adjourned.

<div>Margaret A. Wuerstle, AICP Chief Planner Department of Community Development & Planning</div>	<div>Donald Mooney, Chair City Planning Commission</div>
Date: _____	Date: _____